

BellSouth Corporation
Suite 900
1133-21st Street, N.W.
Washington, DC 20036-3351

kathleen.levitz@bellsouth.com

Kathleen B. Levitz
Vice President-Federal Regulatory

202 463 4113
Fax 202 463 4198

September 30, 2003

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Re: CC Docket No. 95-116

Dear Ms. Dortch:

This is to inform you that on September 29, 2003, Herschel Abbott, Jonathan Banks, Peter Hill and I, all representing BellSouth, met with: Commissioner Martin and Dan Gonzalez, Sam Feder, and Jason Williams of his staff. Later that day Herschel Abbott and I met with Commissioner Copps and his legal advisor Jessica Rosenworcel; and Commissioner Adelstein and his legal advisor Barry Olson. The purpose of each of our meetings was to discuss why the Commission should not grant pending CTIA petitions for declaratory ruling relating to intermodal porting issues. The attached document formed the basis for that presentation.

In accordance with Section 1.1206, I am filing this notice electronically and request that you please place it in the record of the proceeding identified above. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen B. Levitz".

Kathleen B. Levitz

Attachment

cc: Commissioner Martin
Commissioner Copps
Commissioner Adelstein
Dan Gonzalez
Sam Feder
Barry Ohlson
Lisa Zaina
Scott Bergmann
Jessica Rosenworcel
Jason Williams
Jennifer Manner
Matthew Brill
Bryan Tramont
Christopher Libertelli
Sheryl Wilkerson

William Maher
Carol Matthey
Cheryl Callahan
Eric Einhorn
Jennifer Salhus
Pamela Slipakoff
Jeffrey Dygert
John Muleta
Jared Carlson

BellSouth Presentation on Issues Relating to Implementation of WLNP

September 29, 2003

History of WLNP in CC Docket 95-116

- 1996: 1st R&O imposed LNP obligation on both wireline and wireless carriers
- 1997: 2nd R&O adopted technical and operational rules governing LNP for wireline carriers
- 1998-1999: Three NANC Report to FCC – each indicating the industry cannot reach consensus on intermodal porting issues
- 1H2003:CTIA files petitions for clarification of technical and operational rules governing LNP between wireline and wireless carriers; WCB issues Public Notices seeking comment on the petitions, but does not publish in Federal Register

2nd R&O – Addressed the Scope of the LNP Obligation

- FCC adopts rule defining technical and operational standards governing wireline LNP obligations based on 1997 NANC Report. Under § 52.26(a) of the the Commission's Rules:
 - Wireline carriers porting obligation is limited to within the rate center
 - Wireline service providers assign customers a TN associated with the rate center within which the customer is located
 - When a competitor requests that a customer's TN be ported to its network, the competitor will not permit the customer to retain that TN if the customer subsequently moves from the rate center associated with that TN
 - The interval for porting numbers should be no more than 4 days:
 - 1 day for Firm Order Completion (FOC)
 - 3 days to complete the actual port.

2nd R&O on WLNP

- The Commission:
 - “recognize[d] that it will probably be necessary to modify and update the current local number portability standards and procedures in order to support wireless number portability
 - directed the NANC to develop standards and procedures necessary to provide for CMRS provider participation in local number portability
 - directed NANC as soon as possible to make and to present to the Commission recommendations for such modifications to the various technical and operational standards as necessary for CMRS providers to implement number portability efficiently and to allow CMRS providers to interconnect with a wireline number portability environment. (¶¶ 91-92)

October 2000 Phase II NANC Report on LNP

- The Report indicated that the NANC was unable to reach consensus on:
 - The rate center issue
 - The porting interval for intermodal ports.
- The Report identified potential ways to resolve the rate center issue:
 - Require assignment of NXXs to WSPs on a rate center basis and require assignment of TNS to wireless customers based on their billing location
 - Align local service areas between wireline & wireless carriers
 - Require both categories of carriers to adopt the same rating methods
 - Defer WLNP until state commissions order location portability beyond the rate center, NPA boundary, state and LATA
 - Limit intermodal portability to fixed location/non-roaming wireless services where the WSP has agreed to adopt wireline numbering assignment and portability rules
 - Do not require intermodal portability

CTIA Petitions

- Petition I requested a declaratory ruling that
 - wireline carriers have an obligation to port their customers' numbers to a CMRS provider whose service area overlaps the wireline carrier's rate center
 - A wireline carrier's obligation to port numbers requires a service-level porting agreement, and not an interconnection agreement
- Petition II requested a declaratory ruling that
 - Wireline carriers must complete intermodal ports within 2 and ½ hours

CTIA's petitions should be rejected on legal grounds

- CTIA's petition requests would clearly modify wireline carriers' existing obligations under the Commission's rules
 - With such “change[s] to the rules of the game” more than a clarification has occurred.
 - A new rule that works a substantive change in prior regulations is subject to APA rulemaking requirements of the notice and comment.
 - In this case, such notice and comment has not occurred

CTIA's petitions should also be rejected on policy grounds

- Granting the requested expansion of porting obligations requested by CTIA would place wireline carriers at a significant competitive disadvantage
 - Wireline carriers, ILECs and CLECs alike, would be unable to compete for wireless customers holding TNs not associated with the customer's rate center location and could even lose the opportunity to win back customers who initially decide to port their TNs to a wireless carrier
- The FCC has repeatedly stated that its Policy Objectives for Numbering, which provide overarching principles for all NANP issues, include:
 - Administration of the NANP should not unduly favor one technology over another.
 - The NANP should be largely technology neutral
 - The relief CTIA requests on the rate center issue is not technology neutral

CTIA's petition should also be rejected on policy grounds – porting intervals

- CTIA consistently argues that its members should not be forced to comply with wireline industry practices and procedures
- The converse of this argument is equally compelling; moreover in this case, the wireline industry practice has been codified in the Commission's rules
- If the Commission concludes that the porting interval now specified in the rules should be modified, the Commission should:
 - direct NANC to identify the process changes required to change the interval;
 - modify the governing rules;
 - grant affected carriers a reasonable period to modify their OSS

CTIA's petition should also be rejected on policy grounds – porting agreements

- The nature of the agreement that defines both carriers' porting obligations should be determined by the carriers
- If the carriers already have a pre-existing interconnection agreement, it will be more efficient to modify that agreement to determine the carriers' porting obligations

Summary

- CTIA's petitions for declaratory ruling should be denied
- The Commission should immediately commence a rulemaking proceeding to resolve the intermodal issues such as the rate center and porting interval issues
 - To grant CTIA's petition would fail to comply with the Commission's obligations under the APA
 - To grant CTIA's petition would be inconsistent with the FCC's well-established policy of remaining technology neutral in resolving issues of competitive impact
 - The Commission needs to consider fully the ramifications of ultimately choosing to change the existing rules governing the scope of wireline carriers' obligations to port TNs – this can most effectively be done through a rulemaking, with the assistance of the NANC